

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
MISSOULA DIVISION

DARRELL W. CHAPAROSA,)	Cause No. CV 11-89-M-DWM-JCL
)	
Petitioner,)	
)	
vs.)	FINDINGS AND RECOMMENDATION
)	OF U.S. MAGISTRATE JUDGE
1871 UNITED STATES)	
COMMANDER IN CHIEF)	
BARACK OBAMA,)	
)	
Respondent.)	

On June 22, 2011, Petitioner Darrell Chaparosa filed a document titled “Common Law Petition for a Common Law Writ of Habeas Corpus ad Subjiciendum, Mandamus, and Declaratory Judgment.” He also moved to proceed in forma pauperis and filed numerous exhibits. Chaparosa is a state prisoner proceeding pro se.

Although Chaparosa’s petition and exhibits were lengthy, random, virtually incomprehensible, and occasionally profane, he was given an opportunity to amend his pleading to make what might have been substantial allegations more clearly. E.g., Pet. (doc. 1) at 12-13. He was also required to use the Court’s standard forms. Order

to Petitioner (doc. 4) at 2.

On July 29, Chaparosa responded with the same prolix and pointless allegations that constituted nearly all of his initial pleading. He refused to use the forms, insisting instead on making it much more difficult for the Court to understand any actual claims he might have under real law. It is clear, however, that he is not concerned about the incidents hinted at in his original pleading; he does not repeat anything resembling them. To the extent he claims he needs a laptop with internet access and books on military law in order to have access to the courts, “Notice” (doc. 5) at 17-18, he clearly does not. Lewis v. Casey, 518 U.S. 343, 355 (1996). And he continues to occasionally use profanity.

There is no reason to proceed any further with this action. The case should be dismissed. Chaparosa fails to make any showing that he has been deprived of a constitutional right. 28 U.S.C. § 2253(c)(2). A certificate of appealability should be denied.

Based on the foregoing, the Court enters the following:

ORDER

Chaparosa’s motion to proceed in forma pauperis (doc. 2) is GRANTED. The Clerk of Court shall waive payment of the filing fee.

The Court also enters the following:

RECOMMENDATION

1. This action should be DISMISSED as frivolous.
2. The Clerk of Court should be directed to enter by separate document a judgment of dismissal.
3. A certificate of appealability should be DENIED.

**NOTICE OF RIGHT TO OBJECT TO FINDINGS & RECOMMENDATION
AND CONSEQUENCES OF FAILURE TO OBJECT**

Pursuant to 28 U.S.C. § 636(b)(1), Chaparosa may serve and file written objections to this Findings and Recommendation within fourteen (14) days of the date entered as indicated on the Notice of Electronic Filing. If Chaparosa files objections, he must itemize each factual finding to which objection is made and must identify the evidence in the record he relies on to contradict that finding; and he must itemize each recommendation to which objection is made and must set forth the authority he relies on to contradict that recommendation. Failure to assert a relevant fact or argument in objection to this Findings and Recommendation may preclude reliance on that fact or argument at a later stage of the proceeding. A district judge will make a de novo determination of those portions of the Findings and Recommendation to which objection is made. The district judge may accept, reject, or modify, in whole or in

part, the Findings and Recommendation. Failure to timely file written objections may bar a de novo determination by the district judge and/or waive the right to appeal.

DATED this 9th day of August, 2011.

/s/ Jeremiah C. Lynch
Jeremiah C. Lynch
United States Magistrate Judge